

REGULAR

RA8

NUMBER 192.20

**TITLE: AN ORDINANCE OF THE CITY OF MILPITAS ADOPTING A PROGRAM FOR THE
USE OF EMINENT DOMAIN BY THE REDEVELOPMENT AGENCY OF THE CITY
OF MILPITAS FOR THE MILPITAS REDEVELOPMENT PROJECT AREA NO. 1
PURSUANT TO SB 53**

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of
_____ upon motion by _____, and was adopted (second reading)
by the City Council at its meeting of _____ upon motion by _____. Said
Ordinance was duly passed and ordered published in accordance with law by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Steven T. Mattas, City Attorney

ORDINANCE CLAUSE:

THE CITY COUNCIL OF THE CITY OF MILPITAS DOES ORDAIN AS FOLLOWS:

WHEREAS, the Redevelopment Agency of the City of Milpitas, a public body corporate and politic (the “**Agency**”) is a redevelopment agency duly organized pursuant to Community Redevelopment Law (California Health and Safety Code Section 33000 *et seq.*) (“**CRL**”), and pursuant thereto has responsibility to carry out the Redevelopment Plan for the Milpitas Redevelopment Project Area No. 1 (the “**Project Area**”); and

WHEREAS, the redevelopment plan for the Project Area was adopted by the City Council of the City of Milpitas (the “**City Council**”) by Ordinance No. 192 on September 21, 1976, and was thereafter amended by Ordinance No. 192.1, adopted on September 4, 1979, by Ordinance No. 192.2, adopted on May 4, 1982, by Ordinance No. 192.3, adopted on November 27, 1984, by Ordinance No. 192.4, adopted on December 9, 1986, by Ordinance No. 192.6A, adopted on April 16, 1991, by Ordinance No. 192.9, adopted on December 9, 1994, by Ordinance No. 192.11 adopted on October 15, 1996, and was amended and restated by Ordinance No. 192.14 on June 17, 2003 as further amended by Ordinance No. 192.15 on October 7, 2003, by Ordinance 192.16 on October 2, 2006, and fiscally merged with the Great Mall Redevelopment Project by Ordinance No. 192.18 on November 29, 2006, (as so amended, hereafter, the “**Redevelopment Plan**”); and

WHEREAS, effective January 1, 2007, SB 53 added Section 33342.7 to the Health and Safety Code, pursuant to which legislative bodies that adopted a final redevelopment plan prior to January 1, 2007 are required to adopt on or before July 1, 2007, an ordinance that describes the redevelopment agency’s program to acquire real property by eminent domain; and

WHEREAS, SB 53 provides that following adoption of an ordinance describing the redevelopment agency’s program to acquire real property by eminent domain, such program may only be modified pursuant to an amendment of the redevelopment plan; and

WHEREAS, the Redevelopment Plan provides the Agency with authority to exercise eminent domain powers to acquire real property in certain limited circumstances following compliance with all requirements of law.

NOW, THEREFORE, the City Council of the City of Milpitas does ordain as follows:

Section 1. Adoption of Program.

The following is hereby adopted as the Agency’s program to acquire real property by eminent domain pursuant to Health and Safety Code Section 33342.7:

The Redevelopment Plan for the Milpitas Redevelopment Project Area No. 1 authorizes the Redevelopment Agency of the City of Milpitas (“**Agency**”) to acquire non-residential real property located within the area of the Project Area identified as the “Midtown Added Area” by eminent domain. The Redevelopment Agency may only acquire property by eminent domain following compliance with all requirements of applicable law, including without limitation, compliance with all requirements pertaining to notice, hearings, and the payment of just compensation. The Agency’s program to acquire real property by eminent domain may only be amended by amending the Redevelopment Plan pursuant to the CRL.

Section 2. Effective Date and Publication.

This Ordinance shall be published once within fifteen (15) days after its adoption in the Milpitas Post or a newspaper of general circulation in the City of Milpitas. This ordinance shall take effect thirty (30) days after adoption and the title thereof shall be published once prior to adoption.

Section 3. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of the ordinance is for any reason held to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part hereof. The City Council hereby declares that it would have passed each section of the Ordinance irrespective of the fact that one or more of them would be declared unconstitutional or invalid. To this end, the provisions of the Ordinance are declared to be severable.

REGULAR

NUMBER 192.21

**TITLE: AN ORDINANCE OF THE CITY OF MILPITAS ADOPTING A PROGRAM FOR
THE USE OF EMINENT DOMAIN BY THE REDEVELOPMENT AGENCY OF
THE CITY OF MILPITAS FOR THE GREAT MALL REDEVELOPMENT
PROJECT PURSUANT TO SB 53**

HISTORY: This Ordinance was introduced (first reading) by the City Council at its meeting of
_____ upon motion by _____, and was adopted (second
reading) by the City Council at its meeting of _____ upon motion
by _____. Said Ordinance was duly passed and ordered published in
accordance with law by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Jose S. Esteves, Mayor

APPROVED AS TO FORM:

Steven T. Mattas, City Attorney

ORDINANCE CLAUSE:

THE CITY COUNCIL OF THE CITY OF MILPITAS DOES ORDAIN AS FOLLOWS:

WHEREAS, the Redevelopment Agency of the City of Milpitas, a public body corporate and politic (the “**Agency**”) is a redevelopment agency duly organized pursuant to Community Redevelopment Law (California Health and Safety Code Section 33000 *et seq.*) (“**CRL**”), and pursuant thereto has responsibility to carry out the Redevelopment Plan for the Great Mall Redevelopment Project (the “**Project Area**”); and

WHEREAS, the redevelopment plan for the Project Area was adopted by the City Council of the City of Milpitas (the “**City Council**”) by Ordinance No. 192.8 on November 2, 1993, and was thereafter amended by Ordinance No. 192.10, adopted on December 6, 1994, by Ordinance No. 192.13, adopted on October 16, 2001, by Ordinance No. 192.17 adopted on October 3, 2006, and fiscally merged with the Milpitas Redevelopment Project Area No. 1 by Ordinance No. 192.19 adopted on November 29, 2006, (as so amended, hereafter, the “**Redevelopment Plan**”); and

WHEREAS, effective January 1, 2007, SB 53 added Section 33342.7 to the Health and Safety Code, pursuant to which legislative bodies that adopted a final redevelopment plan prior to January 1, 2007 are required to adopt on or before July 1, 2007, an ordinance that describes the redevelopment agency’s program to acquire real property by eminent domain; and

WHEREAS, SB 53 provides that following adoption of an ordinance describing the redevelopment agency’s program to acquire real property by eminent domain, such program may only be modified pursuant to an amendment of the redevelopment plan; and

WHEREAS, the Redevelopment Plan does not provide the Agency with authority to exercise eminent domain powers to acquire real property.

NOW, THEREFORE, the City Council of the City of Milpitas does ordain as follows:

Section 1. Adoption of Program.

The following is hereby adopted as the Agency’s program to acquire real property by eminent domain pursuant to Health and Safety Code Section 33342.7:

The Agency shall not exercise the power of eminent domain to acquire real property within the Great Mall Redevelopment Project. The Agency’s program to acquire real property by eminent domain may only be amended by amending the Redevelopment Plan pursuant to the CRL.

Section 2. Effective Date and Publication.

This Ordinance shall be published once within fifteen (15) days after its adoption in the Milpitas Post or a newspaper of general circulation in the City of Milpitas. This ordinance shall take effect thirty (30) days after adoption and the title thereof shall be published once prior to adoption.

Section 3. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of the ordinance is for any reason held to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part hereof. The City Council hereby declares that it would have passed each section of the Ordinance irrespective of the fact that one or more of them would be declared unconstitutional or invalid. To this end, the provisions of the Ordinance are declared to be severable.

EXHIBIT A



NTS

CITY OF SAN JOSE

N/A

Project Area No 1

573.85 AC.

Great Mall
2001 Amendment

153.30 AC.

Project Area No 1
Amendment No 5

342.50 AC.

Project Area No 1
Amendment No 2

479.50 AC.

Project Area No 1
Amendment No 1

Great Mall
2001 Amendment

153.30 AC.

N/A

Project Area No 1
Amendment No 1

478.12 AC.

Project Area No 1
Amendment No 3

347.30 AC.

Great Mall
2001 Amendment
0.75 AC.

CITY OF SAN JOSE

LEGEND

- Project Area No 1
- Great Mall
- City Boundary